IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Writ Petition No. 8447 of 2004

Silvassa Industries Asson

Danu Udyog Sahakari .Sangh and ors..petitioners

vs

The Administrator of Daman

Due and Dadra & Nagar Haveli... respondent

Mr.Shekhar Naphade with Mr. K S Bapat for

Petitioners

Mr. R.M.Agarwal adv for respondents

CORAM;A.P.SHAH & S.C.DHARMADHIKARI JJ.

Dated 28.l0.2004

P C:

Heard advocates.

l. This writ petition challenges the notification dated 4.8.2004 issued under sub-section(l) of section 3 read with clause (ii) of sub-section (l) of section 4 and sub-section (ii) of section 5 of the Minimum Wages Act, l048 revising the rate of minimum wages in respect of the employees employed

in the scheduled employment in the union territory of Dadra and Nagar Haveli. The notification is impugned primarily on the ground that the rate of special allowance has been linked to the Consumer Price Index (CPI) applicable at Vapi in Gujarat State. It is submitted that there is nothing which can be compared between Vapi and Dadra and Nagar Haveli for which respondents could have taken the basis of consumer price index of Vapi. Vapi is completely urban area of Gujarat State which have factories of chemicals, hazardous and all other types whereas in Dadra and Nagar Haveli there are restrictions on erection of factories which are not eco-friendly and only those factories are permitted which are non polluting. The infrastructure available at Vapi is completely different and, therefore, considering Vapi for the purpose of consumer price index is itself arbitrary and without any application of mind. It is also submitted that when the minimum wages were revised only in October 2002 there could not have been any further revision at such a short interval.

2. We do not find any substance in the challenge raised in the petition. It appears that in union territory of Dadra and Nagar Haveli there was no provision to link minimum wages to the consumer

price index to provide Variable Dearness Allowance (VDA). The Government of India has insisted all States/ Union Territories to adopt VDA formula for revision of wages so that the workers are compensated against the increase in the price from time to time. The working, living and social conditions of the people of Gujarat and union territory of Dadra and Nagar Haveli are more or less similar and, therefore, it was proposed to adopt CPI applicable at Vapi. Incidentally it may be mentioned that Vapi is situated adjacent to union territory of Dadra and Nagar Haveli. It is brought on record that in recent times there is unprecedented growth of industries at Silvasa which once upon a time was a small town having population of about 7000 only, but due to various incentives granted in union territory,such as sales tax holidays,income tax holiday and subsidy investment etc. there was sudden influx of entrepreneurs in the union territory of Dadra and Nagar Haveli.The population in union territory of Dadra and Nagar Haveli mainly consists of Adivasis and cost of living is also higher compared to the cost of living in Vapi. The distance between Vapi and Silvassa is just l6 km and, therefore, for working out the minimum wages of VDA formula price index of Vapi has been taken into consideration. In the

above circumstance no interference is called for under Article 226 of the Constitution. Petition is accordingly dismissed.